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September 10, 2010

**Via ECF and Overnight Mail**

Honorable Arthur D. Spatt  
United States Senior District Judge  
Eastern District of New York  
100 Federal Plaza  
P.O. Box 9014  
Central Islip, NY 11722-9014

Re: Eric Gunther v. Capital One, N. A.; No. 09-cv-2966-ADS-AKT

Your Honor:

I write on behalf of Capital One, N.A. to follow up on my letter of August 31, 2010. In the August 31 letter, I informed Your Honor that the parties anticipate filing proposed amended class action settlement papers. At the time of the August 31 letter, we had anticipated being able to file the amended papers by now. However, we are still confirming some of the data referenced in my prior letter and, as a result, we expect the amended papers to be filed early next week.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Otero", with a stylized flourish at the end.

Brian V. Otero

cc: Honorable A. Kathleen Tomlinson (via overnight mail)  
Joseph P. Guglielmo, Esq. (via e-mail and overnight mail)  
Joseph S. Tusa, Esq. (via e-mail and overnight mail)